IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

OP.No. 19398 of 2002(H)

PETITIONER:

M.K.MOIDUTTY, S/O.SAIDALAVI HAJI,
AGED 54 YEARS, PROPRIETOR,BHARATH WOOD INDUSTRIES,
TIRUR ROAD, TANUR (P.O), MALAPPURAM DISTRICT.

BY ADV. SRI.T.K.AJITH KUMAR

RESPONDENTS:

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1. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY, LABOUR AND
   REHABILITATION DEPARTMENT, SECRETARIAT,TRIVANDRUM.

2. **THE DISTRICT LABOUR OFFICER,**
   MALAPPURAM.

3. **THE TAHSILDAR, TIRUR TALUK,**
   MALAPPURAM DISTRICT.

4. **KOTTAYIL HAMZA, S/O.ALAVI,**
   KADAMPUZHA (P.O), MALAPPURAM DISTRICT.

5. **PARAPPURATH KUNHIMOHAMMED,**
   S/O.ALIKUTTY, PANDIAD HOUSE, TANALUR (P.O),
   MALAPPURAM DISTRICT.

BY ADV. SRI.ASOK M.CHERIAN
GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.33198/2002 IN OP. NO.19398/2002

DISMISSED

21.03.2007 **SD/- S.SIRI JAGAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER IN C.O. 17/95 DT.31ST JULY, 1998 PASSED BY THE LEARNED LABOUR JUDGE, KOZHIKODE.

EXT.P2:- COPY OF THE STAMPED RECEIPT FOR RS.31,500 DT.30.3.02 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

EXT.P3:- COPY OF THE STAMPED RECEIPT FOR RS. 34,500/- DT.30.3.02 ISSUED BY THE 5HT RESPONDENT TO THE PETITIONER.

EXT.P4:- COPY OF THE REPRESENTATION DT.30.3.02 SUBMITTED BY THE 4TH AND 5TH RESPONDENT TO THE 3RD RESPONDENT.

EXT.P5:- COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DT. 5.7.02.

EXT.P6:- COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DT. 5.7.02.

EXT.P7:- COPY OF THE AUCTION NOTICE DT.25.6.02 ISSUED BY THE 3RD RESPONDENT.

/TRUE COPY/

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S. SIRI JAGAN, J.

O.P.NO. 19398 OF 2002

DATED THIS THE 21st DAY OF MARCH, 2007

JUDGMENT

By Ext.P1 order in C.P.No.17/95, the Labour Court, Kozhikode directed the petitioner herein to pay an amount of Rs.31,500/- and Rs.34,500/- to respondents 4 and 5 herein. Ext.P1 was passed on 31.7.1998. It appears that the workmen involved approached the 2nd respondent for coercive proceedings for recovery of the same. The petitioner claims that he has paid the amounts due as per Exts.P2 and P3 receipts dated, 30.03.02. The petitioner's complaint in the original petition is that in spite of the same, the 3rd respondent is continuing with the revenue recovery proceedings initiated for recovery of the amounts due as per Ext.P1. The petitioner, therefore seeks a direction to the 2nd respondent to give necessary directions to the 3rd respondent to drop the revenue recovery proceedings and also to direct the 3rd respondent to return the movable properties attached on 4.12.01 in the revenue recovery proceedings.

2. Respondents 4 and 5 have filed counter affidavits, wherein they have categorically denied that they have not received any amount from the petitioner in compliance with Ext.P1 order. They also

disowned Exts.P2 and P3.

3. This being a disputed question of fact, I do not think that I can decide that question in this original petition. Therefore, I direct the 2nd respondent to consider the genuineness of Exts.P2 and P3 and pass appropriate orders within a period of one month from the date of receipt of a copy of this judgment after giving notice to the petitioner and respondents 4 and 5. However, the attached movables need not be returned to the petitioner until a final decision is taken. In view of the fact that although Ext.P1 order was passed as early as on 31.7.98, even according to the petitioner he has not taken any steps to comply with the order, I feel that the petitioner should pay the costs of this original petition to the respondents 4 and 5. Accordingly, the petitioner should pay Rs.5,000/- to each of respondents 4 and 5 as costs in this original petition. The 2nd respondent need consider the issue as directed in this judgment only after the petitioner produces proof of payment of costs to respondents 4 and 5. The costs shall be paid within two weeks from today.

The original petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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